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Government of Kerala
1978

Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Wednesday, 18th January 1978 / 28th Pousha 1899 [No. 35

GOVERNMENT OF KERALA

Labour & Housing (E) Department

NOTIFICATION

No. G.O. MS. 9/78/L&H. *Dated, Trivandrum, 18th January 1978.*

S. R. O. No. 65/78.—In exercise of the powers conferred by sub-section (1) of section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (Central Act 37 of 1970), the Government of Kerala hereby make the following amendment to the Notification No. G.O. Ms. 105/77/LBR dated the 16th December, 1977 published as S. R. O. No. 1196/77 in the Kerala Gazette Extraordinary No. 734 dated the 17th December, 1977 namely:—

AMENDMENT

In the said notification, for the figures and words "20th December, 1977", the figures and words "20th January, 1978" shall be substituted.

33/199/MC

Explanatory Note

(This does not form part of the notification but is intended to indicate its general purport.)

In the Labour (E) Department Notification No. G.O. MS. 105/77/LBR dated 16th December, 1977 published as S. R. O. No.1196/77 in Kerala Gazette Extraordinary No. 734 dated 17th December 1977, Government have prohibited the employment of contract labour in Lekshmi Starch Factory, Kundara in respect of certain item of work with effect from 20-12-1977. The management of Lekshmi Starch Factory, Kundara has requested to extend the time limit in order to enable them to make alternate arrangements and to implement the direction in the notification.

Government have accordingly decided to allow one month's time from 20-12-1977 to M/s Lekshmi Starch Factory, Kundara to implement the Notification dated 16-12-1977.

This notification is intended to achieve the above object.

ജി.ഒ: (എം.എസ്.) 9/78/തൊ.ഇ. തിരുവനന്തപുരം, 1978 ജനുവരി 18.

എസ്. ആർ. ഒ. നമ്പർ 65/78.—1970-ലെ കോൺട്രാക്റ്റ് ലേബർ (ക്രമപ്പെടുത്തലും നിറുത്തലാക്കലും) ആക്റ്റ് (1970-ലെ 37-ാം കേന്ദ്ര ആക്റ്റ്) 10-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പുവഴി നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച്, കേരള സർക്കാർ, 1977 ഡിസംബർ 17-ാം തീയതിയിലെ 734-ാം നമ്പർ കേരള അസാധാരണ ഗസററിൽ എസ്.ആർ.ഒ. 1196/77-ാം നമ്പരായി പ്രസിദ്ധപ്പെടുത്തിയ 1977 ഡിസംബർ 16-ാം തീയതിയിലെ ജി. ഒ. എം. എസ്. 105/77/എൽ. ബി. ആർ. നമ്പർ വിജ്ഞാപനത്തിന് താഴെ പറയുന്ന ഭേദഗതി ഇതിനാൽ ഉണ്ടാക്കുന്നു, അതായത്:—

ഭേദഗതി

മേൽപ്പറഞ്ഞ വിജ്ഞാപനത്തിൽ: "1977 ഡിസംബർ 20-ാം തീയതി" എന്ന അക്കങ്ങൾക്കും അക്ഷരങ്ങൾക്കും പകരം "1978 ജനുവരി 20-ാം തീയതി" എന്ന അക്കങ്ങളും അക്ഷരങ്ങളും ചേർക്കേണ്ടതാണ്.

വിശദീകരണക്കുറിപ്പ്

(ഇത് വിജ്ഞാപനത്തിന്റെ ഭാഗമാകുന്നില്ല; എന്നാൽ അതിന്റെ പൊതു ഉദ്ദേശം സൂചിപ്പിക്കാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാകുന്നു.)

1977 ഡിസംബർ 17-ാം തീയതിയിലെ 734-ാം നമ്പർ കേരള അസാധാരണ ഗസററിൽ എസ്. ആർ. ഒ. 1196/77-ാം നമ്പരായി പ്രസിദ്ധപ്പെടുത്തിയ തൊഴിൽ (ഇ) വകുപ്പിന്റെ 1977 ഡിസംബർ 16-ാം തീയതിയിലെ ജി. ഒ. (എം.എസ്.) 105/77/ലേബർ നമ്പർ വിജ്ഞാപനത്തിൽ, സർക്കാർ, കുണ്ടറ

ലക്ഷ്മി സ്റ്റാർച്ച് ഫാക്ടറിയിലെ ചില ഇനങ്ങളിൽപ്പെടുന്ന ജോലികളിലുള്ള കോൺട്രാക്റ്റ് തൊഴിലാളികളുടെ നിയമനം 1977 ഡിസംബർ 20-ാം തീയതി പ്രാബല്യത്തോടുകൂടി നിരോധിച്ചിരുന്നു. കുണ്ടറ ലക്ഷ്മി സ്റ്റാർച്ച് ഫാക്ടറിയുടെ മാനേജ്മെന്റ്, മററ് ഏർപ്പാടുകൾ ഉണ്ടാക്കുന്നതിനും അവരെ പ്രാപ്തരാക്കുന്നതിനും വിജ്ഞാപനത്തിലെ നിർദ്ദേശം നടപ്പാക്കുന്നതിനും വേണ്ടി സമയപരിധി ദീർഘിപ്പിക്കണമെന്ന് അഭ്യർത്ഥിച്ചിട്ടുണ്ട്.

അതനുസരിച്ച് സർക്കാർ, കുണ്ടറ ലക്ഷ്മി സ്റ്റാർച്ച് ഫാക്ടറിക്ക്, 1977 ഡിസംബർ 16-ാം തീയതിയിലെ വിജ്ഞാപനം നടപ്പാക്കുന്നതിന് 20–12–1977 മുതൽ ഒരു മാസത്തെ സമയം അനുവദിക്കുന്നതിന് തീരുമാനിച്ചു.

മേൽപ്പറഞ്ഞ ലക്ഷ്യം സാധിക്കാനാണ് ഈ വിജ്ഞാപനം കൊണ്ടുദ്ദേശിക്കുന്നത്.

By order of the Governor,

I. GOPALAN,
Joint Secretary.

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TRIVANDRUM, 1978.

Government of Kerala
1978

Reg. No. KL/TV/12

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GOVERNMENT OF KERALA

General Administration (Special B) Department

NOTIFICATION

G.O. (Rt.) No. 357/78/GAD. *Dated, Trivandrum, 16th January 1978.*

The Governor of Kerala has been pleased to grant leave on leave salary equivalent to full salary for 30 days from 16-1-1978 F.N. and simultaneous surrender of leave for 30 days from 16-1-1978 F.N. under regulation 5 (4) (i), Part I, Kerala Public Service Commission (Composition and Conditions of Service of Members and Staff) Regulations, 1957, to Shri E. P. Antony, Member, Kerala Public Service Commission.

ZACHARIA MATHEW,
Special Secretary to Government.

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33/182/MC.

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GOVERNMENT OF KERALA

Water and Transport (Transport-C) Department

NOTIFICATION

No. 1287/TC2/78/W&T. *Dated, Trivandrum,* 18*th January*, 1978.

S. R. O. No. 64/78.—Whereas the Government have been convinced that circumstances exist that the tax in respect of non-transport motor vehicles for the quarter ending the 31st March, 1978 payable as per rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975 on or before the 16th January, 1978, could not be accepted by the authorities within the prescribed time due to the strike by a section of the Government employees;

And whereas the Government have been convinced that it is necessary to extend in public interest the time for payment of the vehicle tax in respect of the said non-transport vehicles;

Now, therefore, in exercise of the powers conferred by section 22 of the Kerala Motor Vehicles Taxation Act, 1976 (19 of 1976), read with rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975, the Government of Kerala hereby order that the vehicle tax for the quarter ending the 31st March, 1978, in respect of the non-transport motor vehicles ordinarily kept for use in this State shall be paid on or before the 31st January, 1978.

By order of the Governor,

M. K. Bhaskaran,

Additional Secretary to Government.

Explanatory Note

The time prescribed for the payment of tax in respect of non-transport motor vehicles as per rule 5 of the Kerala Motor Vehicles Taxation Rules, 1975 is 14 days from the date of commencement of the quarter. Since 14th and 15th January 1978 were holidays, the last date for payment of tax is 16-1-1978. Due to the strike by a section of the Government employees from 11-1-1978, special counters could not be functioned and tax could not be received from all the owners of the non-transport vehicles even though they desired to pay the tax in time. Transport Commissioner has reported that a large number of vehicle owners could not pay tax during the grace period even though the Regional Transport Officers were trying their best with the available staff to accept tax and issue licence. Therefore Government have convinced that there is no other way but to extend the grace period upto 31st January 1978 for accepting the tax and issuing licences in respect of the above vehicles.

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1254|LA4A|78. *Dated, Trivandrum, 18th January,* 1978.

The Kerala Prisons Bill, 1978, together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduuct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33/188/MC.

Fifth Kerala Legislative Assembly
Bill No. 37

THE KERALA PRISONS BILL, 1978

A

BILL

to consolidate and amend the law for the regulations of the management of prisons in the State of Kerala.

Preamble.—WHEREAS it is expedient to consolidate and amend the law for the regulation of the management of prisons in the State of Kerala;

Be it enacted in the Twenty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Prisons Act, 1978.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "civil prisoner" means any prisoner who is not a criminal prisoner;

(b) "convicted criminal prisoner" means any criminal prisoner under sentence of a court or court-martial and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);

(c) "criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any court or authority exercising criminal jurisdiction or by order of a court-martial;

(d) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder;

(e) "Inspector-General" means the Inspector General of Prisons appointed under section 4;

(f) "Medical Subordinate" means an Assistant Surgeon or Sub-Assistant Surgeon;

(g) "prescribed" means prescribed by rules made by the Government under this Act;

(h) "prison" means any jail or place used permanently or temporarily under the general or special orders of the Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(i) any place for the confinement of prisoners who are exclusively in the custody of the police;

(ii) any place specially appointed by the Government under section 417 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);

(iii) any place which has been declared by the Government, by general or special order, to be a subsidiary jail;

(i) "prison offence" means an offence declared to be a prison offence under section 46;

(j) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule made under this Act;

(k) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails;

(l) "State" means the State of Kerala.

CHAPTER II

MAINTENANCE AND OFFICERS OF PRISONS

3. *Accommodation for prisoners.*—The Government shall provide for the prisoners in the State accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

4. *Inspector General of Prisons.*—The Government shall appoint an Inspector General of Prisons who shall, subject to the orders of the Government, exercise general control and superintendence of all prisons in the State.

5. *Officers of prisons.*—The Government shall appoint for every prison a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the Government think necessary.

6. *Temporary accommodation for prisoners.*—Whenever it appears to the Inspector General—

(a) that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison; or

(b) that from the outbreak of any epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

he shall make provision in such manner as the Government may direct for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III

DUTIES OF OFFICERS

General

7. *Control and duties of officers of prison.*—All officers of a prison shall obey the directions of the Superintendent and all officers subordinate to the Jailer shall perform such duties as may be prescribed or as may be imposed on them by the Jailer with the sanction of the Superintendent.

8. *Officers not to have business dealings with prisoners.*—No officer of a prison and no person in trust for or employed by him shall sell or let, or derive any benefit from selling or letting, any article to any prisoner, or have any money or other business dealings directly or indirectly with any prisoner.

9. *Officers not to be interested in prison contracts.*—No officer of a prison and no person in trust for or employed by him shall—

(a) have any interest, direct or indirect, in any contract for the supply of provisions or any other article to the prison; or

(b) derive any benefit, directly or indirectly, from the sale or purchase of any such provisions or articles on behalf of the prison or of any article belonging to a prisoner.

Superintendent

10. *Superintendent.*—(1) Subject to the orders of the Inspector-General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special direction as may be given by the Government, the Superintendent of a prison, other than a central prison, shall obey all orders not consistent with this Act or any rule thereunder which may be given to him respecting the prison by the District Collector in times of emergencies and shall report to the Inspector-General all such orders and the action taken thereon.

11. *Records to be kept by the Superintendent.*—The Superintendent shall keep or cause to be kept the following records, namely:—

(a) a register of prisoners admitted;

(b) a book showing when each prisoner is to be released;

(c) a punishment book for the entry of the punishments inflicted on prisoners for prison offences;

(d) a visitor's book for the entry of observations made by the visitors touching matters connected with the administration of the prison;

(e) a record of the money and other articles taken from prisoners; and

(f) such other records as may be prescribed.

Medical Officer

12. *Duties of Medical Officer.*—Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison and shall perform such duties as may be prescribed;

13. *Medical Officer to report in certain cases.*—(1) Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which the prisoner is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observation as he may think proper.

(2) The Superintendent shall forthwith send the report under sub-section (1) with his orders thereon to the Inspector General for information.

14. *Report on death of prisoners.*—On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:—

(a) the day on which the deceased first complained of illness or was observed to be ill;

(b) the labour, if any, on which he was engaged on that day;

(c) the scale of his diet on that day;

(d) the day on which he was admitted to hospital;

(e) the day on which the medical officer was first informed of the illness;

(f) the nature of the disease;

(g) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate;

(h) when the prisoner died; and

(i) in cases where a post-mortem examination is made, an account of the appearance after death, together with any special remarks that appear to the Medical Officer to be required.

Jailer

15. *Jailer.*—(1) The Jailer shall reside in the prison unless the Inspector General permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the sanction in writing of the Inspector General, be concerned in any other employment.

16. *Jailer to give notice of death of prisoner.*—Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

17. *Responsibility of Jailer.*—The Jailer shall be responsible for the safe custody of the records to be kept under section 11, for the commitment, warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

18. *Jailer to be present at night.*—(1) The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent, but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of such absence to the Superintendent.

(2) In prisons where the Jailer is permitted to reside elsewhere, the Superintendent shall arrange for the Jailer and the subordinate next in grade remaining by turns in the prison at night.

19. *Power of Deputy and Assistant Jailers.*—Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers

20. *Duties of gate-keepers.*—The officer acting as a gate keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

21. *Subordinate officers not to be absent without leave.*—Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

22. *Convict Officers.*—Prisoners who have been appointed as officers of prison shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860)

CHAPTER IV

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

23. *Prisoners to be examined on admission*.—(1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer who shall enter or cause to be entered in a book to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer think fit to add.

(3) In the case of female prisoners, the search under sub-section (1) shall be made by the matron or a female warder under the general or special orders of the Jailer or the Superintendent, and the examination under sub-section (2) shall be carried out in the presence of the matron or a female warder in case such examination is not carried out by a lady Medical Officer.

24. *Effects of prisoners*.—All money or other articles in respect where of no order of a competent court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

25. *Removal and discharge of prisoners*.—(1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous illness or distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V

DISCIPLINE OF PRISONERS

26. *Separation of prisoners*.—(1) In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners.

(2) In a prison where male prisoners under the age of twenty-one are confined, means shall be provided for separating them

altogether from the other prisoners, and for separating those of them who have arrived at the age of puberty from those who have not.

(3) Unconvicted criminal prisoners shall be kept apart from convicted criminal prisoners and civil prisoners shall be kept apart from criminal prisoners.

27. *Association and segregation of prisoners.*—Subject to the provisions of section 26, convicted criminal prisoners may be confined either in association or individually in cells, or partly in one way and partly in the other.

28. *Solitary confinement.*—No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical subordinate.

29. *Prisoners under sentence of death.*—(1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by or by order of the Jailer and all articles which the Jailer deems it dangerous or inexpedient to leave in his possession shall be taken from him.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS

30. *Maintenance of certain prisoners from private sources.*—A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

31. *Restriction on transfer of food and clothing between certain prisoners.*—No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner, and any prisoner transgressing the provisions of this section shall lose the previlege of purchasing food or receiving it from private sources for such time as the Superintendent thinks proper.

32. *Supply of clothing and bedding to civil and unconvicted criminal prisoners.*—(1) Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of the clothing and bedding so supplied by the Superintendent to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII

EMPLOYMENT OF PRISONERS

33. *Employment of civil prisoners.*—(1) Civil prisoners may, with the permission of the Superintendent, work and follow any trade or profession.

(2) Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings, but the earnings of such civil prisoners as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

34. *Employment of criminal prisoners.*—(1) No criminal prisoner sentenced to labour, or employed on labour at his own desire, shall, except on an emergency and with the sanction in writing of the Superintendent, be kept to labour for more than eight hours in any one day.

(2) The Medical Officer shall, from time to time, examine the labouring prisoners while they are employed and shall at least once in every fortnight cause to be recorded upon the history ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment of any kind or class of labour, such prisoner shall not be employed on that labour, but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

35. *Employment of criminal prisoners sentenced to simple imprisonment.*—The Superintendent shall make provision for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work except by such alteration in the scale of diet as may be established by the rules of the prisou in the case of neglect of work by such a prisoner.

CHAPTER VIII

HEALTH OF PRISONERS

36. *Sick prisoners.*—(1) The names of prisoners desiring to see the Medical Subordinate, or appearing out of health in mind or body, shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

(2) The Jailer shall, without delay call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill or whose state of mind or body appears to require attention; and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

37. *Record of directions of medical officers.*—All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history ticket or in such other record as may be prescribed, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations if any, as the Jailer thinks fit to make, and the date of the entry.

38. *Provision of hospital.*—In every prison, a hospital or proper place for the reception of sick prisoners shall be provided.

39. *Power of Superintendent to send a prisoner to hospital or asylum for special treatment.*—(1) The Superintendent may, if in his opinion a prisoner requires special treatment in a hospital outside the prison or in an asylum as defined in the Indian Lunacy Act, 1912 (Central Act 4 of 1912), send him to such hospital or asylum subject to the prisoner or any relative or a friend of the prisoner executing such bond and abiding by such other conditions, if any, as may be prescribed.

(2) Any period during which the prisoner is undergoing treatment in such hospital or asylum or spent by him in going thereto or returning therefrom shall be deemed to be part of the period of his detention in the prison.

(3) The provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, so far as may be, apply to the bond referred to in sub-section (1).

Explanation I.—Nothing contained in this section shall be deemed to affect the operation of section 30 of the Prisoners Act, 1900 (Central Act 3 of 1900) or section 9 of the Travancore-Cochin Prisoners Act, 1950 (17 of 1950), in cases to which that section applies.

Explanation II.—In this section, "prisoner" means a convicted criminal prisoner.

40. *Punishment for escape from hospital or asylum.*—If any prisoner referred to in section 39 escapes or attempts to escape from the hospital or asylum to which he has been sent or when going thereto or returning therefrom, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both; and such punishment shall be in addition to the punishment for which the prisoner was liable for the offence of which he was already convicted.

CHAPTER IX

VISITS TO PRISONERS

41. *Visits to civil and unconvicted criminal prisoners.*—Due provision shall be made for the admission at proper time and under proper restrictions into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

42. *Search of visitors.*—(1) The Jailer may demand the name and address of any visitor to a prisoner and, when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) The search under sub-section (1) shall, in the case of female visitors be made by the matron or a female warder.

(3) If any visitor refuses to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as the Government may direct.

CHAPTER X

OFFENCES IN RELATION TO PRISONS

43. *Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.*—Whoever, contrary to any rule made under section 58 introduces or remove or attempts by any means whatever to introduce or remove or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a prison, who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rule communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section.

shall, on conviction before a Magistrate, be liable to imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

44. *Power to arrest for offence under section 43.*—When any person, in the presence of any officer of a prison, commits any offence specified in section 43, and refuses on demand of such officer to state his name and residence or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest such person and shall without unnecessary delay make him over to a police officer, and thereupon such police officer shall proceed as if the offence has been committed in his presence.

45. *Publication of penalties.*—The Superintendent shall cause to be affixed in a conspicuous place outside the prison, a notice in English and in Malayalam and also in the language of the locality where the language is not Malayalam setting forth the acts prohibited under section 43, and the penalties incurred by their commission.

CHAPTER XI

PRISON-OFFENCES

46. *Prison-offences.*—The following acts are declared to be prison-offences when committed by a prisoner:—

(1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 58 to be a prison-offence;

(2) any assault or use of criminal force;

(3) the use of insulting or threatening language;

(4) immoral or indecent or disorderly behaviour;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing, cutting altering or removing bars without due authority;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;

(10) wilfully or negligently causing destruction or damage to prison; property including any article produced in the prison;

(11) tampering with or defacing history-tickets, records or documents;

(12) receiving, possessing or transferring any prohibited article;

(13) feigning illness;

(14) wilfully bringing a false accusation against any officer or prisoner;

(15) omitting or refusing to report as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape and any attack or preparation for attack upon any prisoner or prison-official; and

(16) conspiring to escape or to assist in escaping, or to commit any other of the offences aforesaid.

47. *Punishment for prison-offences.*—The Superintendent may examine any person touching any prison-offence and determine thereupon and punish such offence by—

(1) a formal warning.

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent, and recorded in the punishment book and on the prisoner's history-ticket;

(2) change of labour to some more irksome or severe form for such period as may be prescribed;

(3) hard labour, for a period not exceeding seven days, in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;

(4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed;

(5) stoppage of recreation facilities for any period not exceeding one month;

(6) stoppage of canteen facilities for any period not exceeding three months;

(7) fatigue drill for any period not exceeding seven days:

Provided that the duration of such drill in any one day shall not exceed thirty minutes;

(8) digging for any period not exceeding seven days:

Provided that the duration of digging in any one day shall not exceed one hour;

(9) separate confinement for any period not exceeding three months.

Explanation.—Separate confinement means such confinement, with or without labour, as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(10) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed.

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence, nor until after an interval of one week;

(11) cellular confinement for any period not exceeding fourteen days:

Provided that, after each period of cellular confinement, an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement.

Explanation.—Cellular confinement means such confinement with or without labour, as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

(12) penal diet as defined in clause (10) combined with cellular confinement:

Provided that, notwithstanding anything contained in section 48, in the case of a prisoner wilfully or negligently causing destruction or damage to prison property including any article produced in the prison, any one, or a combination of one or more, of the following punishments may also be imposed, namely:—

(i) reduction of the wages of the prisoner upto a maximum of three rupees for any one offence;

(ii) recovery from the wages of the prisoner or from his private cash a sum not exceeding ten rupees for any one offence;

(iii) removal of the prisoner from the wages system for a period no exceeding three months for any one offence.

48. *Plurality of punishments under section 47.*—(1) Any two of the punishments enumerated in section 47 may be awarded for any prison-offence in combination, subject to the following exceptions, namely:—

(i) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;

(ii) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with cellular confinement;

(iii) cellular confinement shall not be combined with separate confinement so as to prolong the total period of seclusion to which the prisoner shall be liable;

(iv) no punishment shall be combined with any other punishment in contravention of rules made by the Government.

(2) No punishment shall be awarded for any prison-offence as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.

49. *Award of punishments under sections 47 and 48.*—(1) The Superintendent shall have power to award any of the punishments enumerated in section 47 and 48 subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

50. *Punishment to be in accordance with foregoing sections.*—Except by order of a competent court, no punishment, other than the punishments specified in sections 47 and 48, shall be inflicted on any prisoner and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

51. *Medical Officer to certify to fitness of prisoner for punishment.*—(1) No punishment of penal diet, either singly or in combination, or of change of labour under clause (2) of section 47 or of fatigue drill under clause (7) of section 47, or of digging under clause (8) of that section, shall be executed, until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment book, mentioned in section 11.

(2) If the Medical Officer considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing, and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) If the Medical Officer considers that any modification is necessary, he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

52. *Entries in punishment book.*—(1) In the punishment book mentioned in section 11, there shall be recorded in respect of every punishment inflicted the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner and the date of his last prison-offence, the punishment awarded and the date of infliction.

(2) In the case of every serious prison-offence, the name of the witnesses proving the offence shall be recorded.

(3) Against the entries relating to each punishment, the Jailer and the Superintendent shall affix their initials as evidence of the correctness of the entries.

53. *Procedure on committal for heinous offence.*—If any prisoner is guilty of any offence against prison discipline, which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may

forward such prisoner to the Court of the Chief Judicial Magistrate or of any Judicial Magistrate of the First Class having jurisdiction together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence or may sentence him to any of the punishments enumerated in section 47:

Provided that no person shall be punished twice for the same offence.

54. *Offences by prison subordinates.*—(1) Every Jailer or Officer of a prison subordinate to him,—

(a) who is guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by a competent authority; or

(b) who withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention, for a period of two months; or

(c) who wilfully overstays any leave granted to him; or

(d) who engages without authority in any employment other than his prison-duty; or

(e) who is guilty of cowardice,

shall be liable, on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(2) No person shall, under this section, be punished twice for the same offence.

CHAPTER XII

MISCELLANEOUS

55. *Extramural custody, control and employment of prisoners.*—A prisoner when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison, and shall be subject to all the same incidents as if he were actually in prison.

56. *Confinement in irons.*—Whenever the Superintendent considers it necessary with reference either to the state of the prison or the character of the prisoners for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the Government, so confine them.

57. *Prisoners not to be ironed by Jailer except under necessity.*—No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

58. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) determining the classification of prison-offences into serious and minor offences;

(ii) fixing the punishments admissible under this Act, which shall be awardable for commission of prison-offences or classes thereof;

(iii) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Indian Penal Code (Central Act 45 of 1860), may or may not be dealt with as a prison-offence;

(iv) the award of marks and the shortening of sentences;

(v) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;

(vi) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;

(vii) regulating the transfer from one prison to another of prisoners whose term of imprisonment is about to expire;

(viii) the classification of prisoners, and description and construction of wards, cells and other places of detention;

(ix) the regulation by numbers, length or character of sentences or otherwise, of the prisoners to be confined in each class of prison;

(x) the government of prisons and for appointment, guidance, control, punishment and dismissal of all officers appointed under this Act;

(xi) regulating the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;

(xii) the employment, instruction and control of convicts within and without prisons;

(xiii) defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;

(xiv) classifying and prescribing the forms of labour and regulating the periods of rest from labour;

(xv) regulating the disposal of the proceeds of the employment of prisoners;

(xvi) the classification and separation of prisoners;

(xvii) regulating the confinement of convicted criminal prisoners under section 27;

(xviii) the preparation and maintenance of history-tickets;

(xix) the selection and appointment of prisoners as officers of prisons;

(xx) rewards for good conduct;

(xxi) the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(xxii) regulating the transmission of appeals and petitions from prisoners and their communications with their friends;

(xxiii) the appointment and guidance of visitors of prisons;

(xxiv) extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974); and to the officers employed and the prisoners confined therein; and

(xxv) generally, in regard to the admission, custody, employment dieting, treatment and release of prisoners, and for other purposes consistent with this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

59. *Exhibition of copies of rules.*—Copies of the rules made under section 58, so far as they affect the government of prisons, shall be exhibited both in English and in Malayalam and also in the language of the locality where such language is not Malayalam, in some place to which all persons employed within a prison have access.

60. *Exercise of powers of Superintendent and Medical Officer.*—All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may, in his absence, be exercised and performed by such other officer as the Government may appoint in this behalf either by name or by his official designation.

61. *Repeal.*—The Prisons Act, 1894 (Central Act 9 of 1894), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act, 37 of 1956) and the Travancore-Cochin Prisons Act, 1950 (XVIII of 1950), are hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The law relating to the management of prisons in the State is regulated by the Travancore-Cochin Prisons Act, 1950 (Act XVIII of 1950) in the Travancore-Cochin area of the State and by the Prisons Act, 1894 (Central Act 9 of 1894) in the Malabar area of the State. It is considered necessary to have a uniform law on the subject applicable to the whole State. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation would not involve any additional expenditure from the Consolidated Fund of the State of Kerala.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub clause (3) of clause 1 seeks to empower the Government to bring the Act into force from a notified date.

Sub clause (j) of clause 2 read with sub clause (2) (xiii) of clause 58 of the Bill seeks to empower the State Government to make rules for specifying certain articles as prohibited articles, the introduction or removal of which into or out of a prison is prohibited.

Clauses 4 and 5 seek to empower the Government to appoint the Inspector General of Prisons and other officers of prisons.

Clause 6 seeks to authorise the Inspector General of Prisons to make provision in such manner as the Government may direct for the shelter and safe custody in temporary prisons, of prisoners who cannot be conveniently or safely kept in the prisons.

Clause 7 envisages the making of rules defining the duties of the officers of prisons subordinate to the Jailer.

Sub clause (f) of clause 11 envisages the making of rules specifying the records to be kept in prisons.

Clause 12 seeks to define by rules the duties to be performed by the Medical Officers attached to the prisons.

Sub clause (10) of clause 47 seeks to authorise the Government to prescribe the manner in which and the conditions regarding labour subject to which diet may be restricted.

Clause 56 seeks to authorise the Inspector General of Prisons to make rules or to issue instructions with the sanction of the Government as to the circumstances under which prisoners could be confined in irons.

Clause 58 of the Bill seeks to empower the Government to make rules for the purpose of carrying into effect the provisions of the Act. The matters in respect of which rules may be made are particularly specified in sub-clause (2) and they relate *interalia* to determining the classification of prison offences, fixing of the punishments for prison offences, awarding of marks, and the shortening of sentences, regulating the transfer of prisoners from one prison to another, classification of prisoners, regulation of food, bedding and clothing, employment of prisoners, disposal of proceeds of employment of prisoners, rewards for good conduct etc.

All the above matters relating to procedure and administrative details and it is hardly possible to provide for them in the Act itself. The delegation of legislative power is therefore of a normal character. Further, sub-clause (3) of clause 58 provides for the laying of every rule made under that clause before the Legislative Assembly and so the rules will be subject to the scrutiny of the Legislative Assembly.

K. NARAYANA KURUP.